

This record is a partial extract of the original cable. The full text of the original cable is not available.

311348Z Jan 06

UNCLAS SECTION 01 OF 02 ROME 000278

SIPDIS

DEPT FOR EB/IFD/OIA/JPROSELI AND L/CID/JNICOL

E.O. 12958: N/A

TAGS: [EINV](#) [KIDE](#) [EFIN](#) [CASC](#) [IT](#) [EUN](#)

SUBJECT: EXPROPRIATION CLAIMS AND DISPUTES

REF: 05 STATE 70014 B. 05 ROME 2139

1. There is one outstanding expropriation case concerning the estate of a U.S. citizen of Italian descent against the City of Rome for expropriation of property. Two other cases appear either settled or abandoned. In the latter two cases, the Embassy/Consulate General has not been directly involved.

2. In the one outstanding case, the Italian born claimant who died in September 1997 alleges that the City of Rome began expropriating without just compensation real property he and others owned via an Italian registered company in and around the City of Rome. Rome has rejected this claim (1) as being settled with the Italian company with allegedly approximately \$650,000 paid to claimant, and (2) because the claimant has no standing under a bilateral treaty to pursue a settlement as all parties at the time of the expropriation were Italian citizens.

3. Details of this case are as follows. The claimant alleged that he and a number of Italian companies he owned held real property in and around the City of Rome. This property was allegedly expropriated by the City of Rome beginning in January 1974 and continuing through September 1980, largely through the operation of zoning laws and forced title transfers. Claimant filed an unsuccessful suit in Italian Courts in 1983. After the claimant death, the U.S. court-appointed Special Administrator of the claimant's estate has continued to pursue this claim and maintains that the City of Rome failed to compensate the Claimant at the fair market value of the property, in contravention of Article V (2) of the 1948 Treaty of Friendship, Commerce and Navigation (FCN) between the Governments of Italy and the United States. The Special Administrator initiated legal action in Italian courts in 1983, seeking fair market value compensation for his property. The court dismissed this claim on several grounds, and this decision was upheld in several appeals, and was finally rejected in 1994 by Italy's Supreme Court of Cassation.

4. The Special Administrator visited Rome in May 2001 and requested the assistance of the Embassy. In 2002, the Ministry of Foreign Affairs informed the Embassy that in its view, this case is closed. In June 2003, the Special Administrator and consultant to the Administrator met with the Ambassador at their request. They asked the Embassy to send a diplomatic note to the Ministry of Foreign Affairs requesting a review of the case, which the Embassy did, upon Department instructions. In a December 29, 2003, diplomatic note, the Ministry of Foreign Affairs argued that the property subject to expropriation belonged to two Italian companies, of which the claimant was the major stockholder. The property, according to the MFA did not belong to the claimant himself. Since the companies in question were Italian and, therefore, subject to Italian law, the MFA argued that the United States could not espouse the claim under the 1948 U.S./Italy Treaty of Friendship, Commerce and Navigation. The Ministry of Foreign Affairs also contended that the United States could not espouse the claim of an Italian citizen. The claimant, born in Italy, was dual citizen and retained his Italian citizenship, even after he had acquired American citizenship. The Ministry of Foreign Affairs therefore reaffirmed its conclusion that the case is closed.

5. After further review of the December 29, 2003, diplomatic note and in close consultation with the Special Administrator, the Department issued instructions to the Embassy to send another diplomatic note to the Ministry of Foreign Affairs responding to specific points and again requesting a review of the case. This diplomatic note was sent to the Ministry of Foreign Affairs in November 2004, and the Ministry of Foreign Affairs provided a brief response dated March 15, 2005, reiterating the Government of Italy's position that the case is closed. On March 17, the Special Administrator visited Embassy Rome. Embassy officers had previously secured appointments for the Special Administrator with officials in the Office of the Prime Minister and the Foreign Ministry, but the Special Administrator subsequently asked that the meetings be canceled because of the March 4

Calipari (Iraq hostage) incident. The case is still outstanding.

16. The two other cases concern claimants in the City of Bari along Italy's Adriatic Coast and the City of Avezzano near Rome. In Bari, claimants allege that the City of Bari expropriated 22,000 square meters of land from them and paid for only 10,000 square meters. The City states that the Claimants must get any additional payment from the party that built on the land, the Istituto Autonomo Case Popolari (IACP). The IACP recognizes their claim but apparently wants to pay a much lower price than the Claimants' lawyer is seeking. A court decision was rendered in September 2002, in which the U.S. claimants were awarded 1.89 million euros and an additional 18,000 euros for legal expenses. In November, 2002 the attorney representing the American claimants contacted the Consulate General in Naples and asked for ConGen Naples' intercession with IACP. ConGen Naples advised the attorney that the Consulate could not interfere in the legal process.

7 . The final case of which we are aware concern an American University attempt to purchase approximately 250,000 square meters of land from the city of Avezzano, not far from Rome, for an American university campus. According to the university in 1975-1976, the City of Avezzano accepted payment for the land, but then failed to deliver title. The university went to court and won a favorable ruling for damages from a court of first instance in 1986, which the city of Avezzano appealed. The university notes that it subsequently won the appeal in 1990, but the city of Avezzano has still not complied with the court's judgment. The Embassy is not aware of any developments in this case for several years.

Spoglie

SPOGLI